

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227  
(LJV)

March 4, 2024

TRANSCRIPT EXCERPT - TESTIMONY OF MARK GENTILE - DAY 2  
BEFORE THE HONORABLE LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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9                                     \*       \*       \*       \*       \*       \*       \*

10                                    (Excerpt commenced at 11:26 a.m.)

11                                    (Jury is present.)

11:26AM 11           **THE COURT:** I remind the witness that he's still  
12 under oath.

11:26AM 13                     Mr. Singer, you may resume.

11:26AM 14           **MR. SINGER:** Thank you, Your Honor.

11:26AM 15  
11:26AM 16     **M A R K   G E N T I L E,** having been previously duly called  
11:26AM 17 and sworn, continued to testify as follows:

11:26AM 18  
11:26AM 19                                   **CROSS-EXAMINATION BY MR. SINGER (CON'T):**

11:26AM 20     Q. Good morning, Mr. Gentile.

11:26AM 21     A. Good morning.

11:27AM 22     Q. So, I know we were a little pressed for time when we  
11:27AM 23 stopped on Friday afternoon regarding the exhibit regarding  
11:27AM 24 your signatures.

11:27AM 25     A. Yes.

11:27AM 1 Q. So I will continue with that. I just want to get into a  
11:27AM 2 few things that I cut short on Friday.

11:27AM 3 So, remember speaking on cross-examination about the  
11:27AM 4 cases that Mr. Bongiovanni tended to focus on when he was an  
11:27AM 5 agent in the DEA in your experience?

11:27AM 6 A. Yes.

11:27AM 7 Q. And we talked about how those were controlled buy/bust  
11:27AM 8 kind of cases?

11:27AM 9 A. Yes, they were.

11:27AM 10 Q. A little more simplistic than some of the other more  
11:27AM 11 complex cases that other people did in the office?

11:27AM 12 A. Yes.

11:27AM 13 Q. And I think you testified that as a group supervisor, one  
11:27AM 14 of your jobs is to set up the subordinates in your command  
11:27AM 15 for success, right?

11:27AM 16 A. Yes.

11:27AM 17 Q. And so sometimes you're gonna train certain agents over  
11:27AM 18 to certain types of cases; is that right?

11:27AM 19 A. That's accurate, yes.

11:27AM 20 Q. And you'll train other agents over to other types of  
11:28AM 21 cases, correct?

11:28AM 22 A. Yes.

11:28AM 23 Q. So, one of the other things that the government talked to  
11:28AM 24 you about last week on direct was an agent by the name of  
11:28AM 25 Anthony Casullo; do you remember that?

11:28AM 1 A. Yes.

11:28AM 2 Q. And Special Agent Casullo, you had testified, was an

11:28AM 3 agent that you first learned about based on contact he had

11:28AM 4 with the office when he was in Las Vegas, Nevada at the DEA?

11:28AM 5 A. Correct.

11:28AM 6 Q. And that was around the 2004 time period; is that right?

11:28AM 7 A. Yes.

11:28AM 8 Q. I know you didn't have any specific type of recollection

11:28AM 9 about actions you took on that case in 2004, correct?

11:28AM 10 A. Correct.

11:28AM 11 Q. Did you have any recollection about any actions that

11:28AM 12 Mr. Bongiovanni took on that case in 2004?

11:28AM 13 A. I don't.

11:28AM 14 Q. Okay. I think after you reviewed the paperwork, you

11:28AM 15 understood that Agent Casullo had a case in Las Vegas that

11:29AM 16 also involved a person by the name of Michael Masecchia who's

11:29AM 17 located in Buffalo; is that right?

11:29AM 18 A. Yes.

11:29AM 19 Q. And Mr. Masecchia, since he was living here, it wasn't

11:29AM 20 outside the ordinary for Agent Casullo to contact DEA Buffalo

11:29AM 21 to assist him in his Las Vegas investigation; is that right?

11:29AM 22 A. That's right.

11:29AM 23 Q. That's something that agents do from time to time when

11:29AM 24 they're not geographically located near where a subject is;

11:29AM 25 is that right?

11:29AM 1 A. Yes.

11:29AM 2 Q. And I don't know if you're aware, but did you know that  
11:29AM 3 Special Agent Mike Hill, the person Special Agent Casullo  
11:29AM 4 originally called, the two of them went to the academy  
11:29AM 5 together?

11:29AM 6 A. Yes, I learned that at some point while I was assigned to  
11:29AM 7 the Buffalo office.

11:29AM 8 Q. Okay. And you've been through the academy before, right?

11:29AM 9 A. Yes.

11:29AM 10 Q. You've probably served with agents who are no longer  
11:29AM 11 located in Buffalo; is that right?

11:29AM 12 A. That's right, yes.

11:29AM 13 Q. And if you knew that you had an investigative lead in a  
11:29AM 14 certain office that one of your friends worked at, or one of  
11:29AM 15 your academy classmates worked at, it wouldn't be out of the  
11:30AM 16 ordinary for you to contact that academy classmate for help,  
11:30AM 17 right?

11:30AM 18 A. Correct.

11:30AM 19 Q. Okay. So, do you understand anything about Agent  
11:30AM 20 Casullo's request to close the Buffalo file that Mike Hill  
11:30AM 21 opened up?

11:30AM 22 **MR. TRIPI:** Objection. Facts not in evidence. It  
11:30AM 23 assumed the fact that Casullo requested the file to be closed.

11:30AM 24 **THE COURT:** So I'll sustain the objection to the form  
11:30AM 25 of the question. You can ask it a different way, Mr. Singer.

Q. Did you have any conversations with Mr. Hill about why he closed the Mike Masecchia file in 2004, 2005?

Q. Okay. So you don't have any knowledge of why it was closed?

Q. Okay. And, so, Agent Casullo, while you first learned about his existence back in 2004, 2005 time period, you also get to meet him when he transfers to Buffalo; is that right?

Q. Okay. And he reports to the Buffalo office in 2015?

A. I don't know the exact time, but it sounds about right, yes.

A. Yes.

**THE COURT:** Overruled. Go ahead.

25 | Q. Okay. And were you aware of investigations that Agent

1 Casullo opened after he arrived at the office into Peter  
2 Gerace and others?

3 A. I wasn't aware there was an open investigation, but I do  
4 recall hearing the name Peter Gerace, yes.

5 Q. All right. Were you aware of any type of information  
6 that Agent Casullo uncovered during his investigation that  
7 Mr. Bongiovanni's cell phone number was found in a toll log  
8 that he ran with regard to Mr. Gerace?

9 A. I did hear about that, yes.

10 Q. Okay. And, I mean, is it fair to say that the fact that  
11 that was communicated out in the office caused some friction  
12 between Agent Casullo and Mr. Bongiovanni?

13 A. Yes.

14 Q. So as far as the friction -- there was some friction at  
15 some point with regard to what Agent Casullo reported  
16 regarding Mr. Bongiovanni's cell phone but --

17 So with regard to Agent Casullo, I know there was a  
18 friction point that developed between Casullo and Bongiovanni  
19 regarding what he found out about Peter Gerace's cell phone,  
20 but there's another friction that occurred between  
21 Mr. Casullo and Mr. Bongiovanni at that time as well,  
22 correct?

23 **MR. TRIPI:** Objection, compound question, and  
24 friction point, I don't understand that term.

25 **THE COURT:** No, I'm going to overrule it. I think



11:34AM 1 it's a fair question.

11:34AM 2 **THE WITNESS:** I'm sorry, can you repeat it? I forgot  
11:34AM 3 what you said.

11:34AM 4 **MR. SINGER:** Yeah, sure. Ann, can you read that  
11:34AM 5 back.

11:34AM 6 (The above-requested question was then read by the  
11:34AM 7 reporter.)

11:34AM 8 **THE COURT:** So the question is, was there some other  
11:35AM 9 friction between Agent Casullo and Bongiovanni at that point?

11:35AM 10 **THE WITNESS:** I know there was tension between the  
11:35AM 11 two of them. As far as what actually caused it, I can't  
11:35AM 12 recall what would have caused it. I'm pretty sure it was  
11:35AM 13 related to the toll information from Mr. Gerace's phone.

11:35AM 14 **BY MR. SINGER:**

11:35AM 15 Q. Okay. So you're aware that there was tension between  
11:35AM 16 Casullo and Bongiovanni, right?

11:35AM 17 A. Yes.

11:35AM 18 Q. And you're aware that it related to the toll log that  
11:35AM 19 Agent Casullo pulled, correct?

11:35AM 20 A. Yes.

11:35AM 21 Q. But you're not aware of any other tension that may have  
11:35AM 22 existed between them?

11:35AM 23 A. I had heard there was some statements made by Mr. --

11:35AM 24 **MR. TRIPI:** Objection. That answer is going to be  
11:35AM 25 hearsay now, and it's for its truth.

11:35AM 1 **THE COURT:** Yeah, why don't we come up. Let's come  
11:35AM 2 up for a second.

11:35AM 3 (Sidebar discussion held on the record.)

11:36AM 4 **THE COURT:** So, where are we going with this and how  
11:36AM 5 is that cross-examination? Mr. Tripi objected. I overruled  
11:36AM 6 the objection. But we may now be getting into an area that  
11:36AM 7 really is leading.

11:36AM 8 **MR. SINGER:** So, I mean, number one, is the  
11:36AM 9 government raised Agent Casullo on the stand originally.

11:36AM 10 **THE COURT:** Which is why I overruled the objection.

11:36AM 11 **MR. SINGER:** No, I understand that, Judge.

11:36AM 12 So as far as the tension, so I wasn't expecting him  
11:36AM 13 to answer anything about what other people were communicating  
11:36AM 14 in the office. I think what I was trying to get out is  
11:36AM 15 whether or not he was aware of other points of tension between  
11:36AM 16 Casullo and Bongiovanni that existed.

11:36AM 17 **THE COURT:** Well, you asked him, and he said no. Do  
11:36AM 18 you want to try to refresh his recollection? Is there --

11:36AM 19 **MR. SINGER:** Yeah, I don't have anything to refresh  
11:36AM 20 his recollection on that point, Judge, so, I mean, if there's  
11:36AM 21 nothing out there --

11:36AM 22 **THE COURT:** Can't you just ask the questions -- did  
11:36AM 23 you know about, those kinds of questions. You can refresh a  
11:37AM 24 witness's recollection with a question, can't you?

11:37AM 25 **MR. SINGER:** I can do that, Judge.

11:37AM 1 **MR. TRIPI:** And, Judge, just moving forward to  
11:37AM 2 contextualize how Casullo came up on direct, it was  
11:37AM 3 specifically as to the Masecchia file. So now we're into, for  
11:37AM 4 lack of a better term, office drama --

11:37AM 5 **THE COURT:** Yeah.

11:37AM 6 **MR. TRIPI:** -- between the two.

11:37AM 7 **THE COURT:** Yeah.

11:37AM 8 **MR. TRIPI:** That's where my objection lies.

11:37AM 9 **THE COURT:** And we're getting close to that point, so  
11:37AM 10 I hope we're not going to be on this for a long time.

11:37AM 11 **MR. SINGER:** No, I don't think we are, Judge.

11:37AM 12 **MR. TRIPI:** Okay. Thank you.

11:37AM 13 (End of sidebar discussion.)

11:37AM 14 **THE COURT:** Okay, you can ask another question.

11:37AM 15 **BY MR. SINGER:**

11:37AM 16 Q. So, Mr. Gentile, were you aware of any tension that  
11:37AM 17 existed between them based on happenings in the field?

11:37AM 18 A. No.

11:37AM 19 Q. But with regard to what happened with the toll logs  
11:37AM 20 involving Mr. Gerace's cell phone, you're under the  
11:38AM 21 understanding that there needed to be some involvement with  
11:38AM 22 the group supervisor to try to fan down the flames, so to  
11:38AM 23 speak?

11:38AM 24 A. I -- I was aware that the issue was brought up to the  
11:38AM 25 group supervisor.

11:38AM 1 Q. During this time period, I know you're not a partner of  
11:38AM 2 Mr. Bongiovanni, but you're office an agent that works in the  
11:38AM 3 office, right?  
11:38AM 4 A. Yes.  
11:38AM 5 Q. And you two have worked together for many, many years at  
11:38AM 6 that point in time, right?  
11:38AM 7 A. Yes, we have.  
11:38AM 8 Q. You've gone on temporary duty details down in New York  
11:38AM 9 City together?  
11:38AM 10 A. Yes.  
11:38AM 11 Q. You've gone to other locations to attend training?  
11:38AM 12 A. Yes.  
11:38AM 13 Q. And so you guys talk about life in general, correct?  
11:38AM 14 A. Yes.  
11:38AM 15 Q. And you also talk about the job and how it's affecting  
11:38AM 16 each other, correct?  
11:38AM 17 A. Yes.  
11:38AM 18 Q. So, after the situation with Mr. Casullo develops, were  
11:39AM 19 you aware of any type of request for transfer out of D-57  
11:39AM 20 that Mr. Bongiovanni made to his superiors?  
11:39AM 21 A. Yes.  
11:39AM 22 Q. And, so, the request for transfer, to your understanding,  
11:39AM 23 that was to go to a different unit than D-57; is that right?  
11:39AM 24 A. Correct.  
11:39AM 25 Q. That was to go to the tactical diversion squad?

1 A. Yes, I don't recall if it was the tactical diversion  
2 squad, but we also have a diversion squad. Both separate  
3 groups.

4 Q. Okay. So I know last week on Friday we talked about what  
5 the tactical diversion squad was, correct?

6 A. Yes.

7 Q. And that's the one specific entity at DEA Buffalo that  
8 deals with the pharmacies and compliance?

9 A. Yes.

10 Q. So you mentioned that there's another squad that's a  
11 diversion squad; is that right?

12 A. Yes. And if I can explain that?

13 Q. Absolutely. If you can explain what the diversion squad  
14 is, because I don't think that came up in the testimony.

15 A. There's two separate groups. There's the diversion squad  
16 and the tactical diversion.

17 Diversion strictly deals with more of a compliance with  
18 pharmaceutical, whereas tactical diversion, I didn't mention  
19 this on Friday, they do have an enforcement aspect. They do  
20 some street work, but the majority of their stuff is  
21 assisting with compliance and, I guess for lack of a better  
22 term, is they would pursue individuals in the medical field  
23 who offer or prescribe prescriptions, are pharmacists, nurse  
24 practitioners, things along those lines.

25 Q. Okay. So, we're talking about more, I guess, fair to say

1 white-collar cases as opposed to blue-collar cases?

2 A. I think that's accurate, yes.

3 Q. And, you know, with regard to the transfer, was there  
4 anything that you're aware of going on in Mr. Bongiovanni's  
5 life at that point in time which also made the transfer  
6 something that was advantageous to him?

7 **MR. TRIPI:** Objection. It calls for hearsay, and  
8 implicates a pretrial ruling by the Court, if you'd like, I  
9 don't want to elaborate on that.

10 **THE COURT:** Yeah, no, no, I remember the ruling. Do  
11 you want to come up.

12 **MR. SINGER:** I can rephrase the question, Judge.

13 **MR. TRIPI:** I'm going to keep objecting.

14 **THE COURT:** Don't decide you're going to keep  
15 objecting until you hear the next question.

16 **MR. TRIPI:** Fair enough. Fair enough. I withdraw.

17 **BY MR. SINGER:**

18 Q. So with regard to the transfer request, were you aware of  
19 any reasons why Mr. Bongiovanni pursued a transfer at that  
20 time?

21 **MR. TRIPI:** Objection.

22 **THE COURT:** Were you aware, is the question.

23 **THE WITNESS:** I was aware of the tensions between him  
24 and Mr. Casullo were the reason behind requests.  
25

11:42AM

1

**BY MR. SINGER:**

11:42AM

2

Q. Okay. And with regard to either the tactical diversion

11:42AM

3

squad or the diversion squad, you'd agree with me that they

11:42AM

4

don't generally engage in the same type of street work as

11:42AM

5

D-57 or D-58 engage in, correct?

11:42AM

6

A. That's accurate.

11:42AM

7

Q. It's a little less dangerous type of work?

11:42AM

8

A. I would think so, yes.

11:42AM

9

Q. Okay. Are you aware of any denials for transfer requests

11:42AM

10

that Mr. Bongiovanni put in at this time?

11:42AM

11

**MR. TRIPI:** Objection.

11:42AM

12

**THE COURT:** Overruled.

11:42AM

13

**THE WITNESS:** I'm sorry, did you say am I aware of

11:42AM

14

any denials?

11:42AM

15

**BY MR. SINGER:**

11:42AM

16

Q. Are you aware of any denials for these transfer requests

11:42AM

17

that Mr. Bongiovanni made at this time?

11:42AM

18

A. I'm not aware of.

11:42AM

19

Q. Okay. And are you aware that any other transfer request

11:42AM

20

that Mr. Bongiovanni put in prior to this time period that

11:42AM

21

Mr. Casullo came to the office?

11:43AM

22

A. I'm not.

11:43AM

23

**MR. SINGER:** I want to get back to where we left off

11:43AM

24

on Friday, Ms. Champoux. Will you mind bringing up

11:43AM

25

Exhibit K.1, which is not in evidence and just on the screen

1 of the witness.

2 **THE COURT:** Did you forget how to do this while you  
3 were on vacation?

4 **BY MR. SINGER:**

5 Q. Do you see that up on your screen, sir?

6 A. Yes, I do.

7 Q. Do you recall going through this document and all the  
8 pages of it before we broke on Friday afternoon last week,  
9 I'm sorry, on Thursday afternoon?

10 A. Yes.

11 Q. And in all those documents that you reviewed, they all  
12 appeared to be in fair and accurate condition of the document  
13 that you signed to the best of your ability and knowledge?

14 A. Yes.

15 Q. And you believed that the document is authentic and your  
16 signature is authentic; is that right?

17 A. Yes.

18 **MR. SINGER:** So Ms. Champoux, will you mind bringing  
19 up K.2 not in evidence on the screen next to K.1.

20 **BY MR. SINGER:**

21 Q. So what I'd like to do, Mr. Gentile, is I'd like to bring  
22 you through page by page. If you notice that the document on  
23 the right, K.2, contains redactions, and the K.1 document  
24 does not. I'd like you to take a look and compare the two  
25 pages, page by page, and see if what appears in K.2 is what



1 appears in K.1 absent the redactions. So let's start with  
2 the first page.

3 A. Yes.

4 **MR. SINGER:** If we can move to page 2 of both  
5 documents, Ms. Champoux.

6 **BY MR. SINGER:**

7 Q. How about the second page?

8 A. Yes.

9 **MR. SINGER:** If we can advance to the third page of  
10 each document, please?

11 **BY MR. SINGER:**

12 Q. How about the third page?

13 A. Yes.

14 **MR. SINGER:** And if we can advance to page 4.

15 **BY MR. SINGER:**

16 Q. How about the fifth page, sir?

17 A. Yes.

18 Q. I'm sorry, fourth page. My apologies.

19 **MR. SINGER:** If we can advance to page 5.

20 **BY MR. SINGER:**

21 Q. Does that appear to be the same?

22 A. Yes.

23 **MR. SINGER:** And if we can advance to page 6, please.

24 **BY MR. SINGER:**

25 Q. How about page 6, sir?

1 A. Yes.

2 **MR. SINGER:** And the final page, page 7.

3 **BY MR. SINGER:**

4 Q. Does that appear to be the same, sir?

5 A. Yes.

6 **MR. SINGER:** Okay. Ms. Champoux, if you can bring  
7 down Exhibit K.1.

8 And, Judge, at this time, the defense moves to enter  
9 defense Exhibit K.2 into evidence.

10 **THE COURT:** K.2?

11 **MR. SINGER:** Correct.

12 **MR. TRIPI:** No objection.

13 **THE COURT:** Okay. Received without objection.

14 **(DFT Exhibit K.2 was received in evidence.)**

15 **MR. SINGER:** If we can publish that to the jury.

16 **THE CLERK:** You're all set.

17 **MR. SINGER:** Thank you.

18 **BY MR. SINGER:**

19 Q. So, Mr. Gentile, I'm focused on page 1 of Exhibit K.2.

20 Does your signature appear in the bottom center of that  
21 page under the approval block, in block 14 of the document?

22 A. Yes.

23 **MR. SINGER:** Okay. And if we can advance to page 2,  
24 Ms. Champoux.

25

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- 2 5

Q. And this was a signature you provided on the 9th of June of 2020; is that right?

11:48AM 1 A. Correct.

11:48AM 2 **MR. SINGER:** If we can advance to page 5, please,  
11:48AM 3 Ms. Champoux?

11:48AM 4 **BY MR. SINGER:**

11:48AM 5 Q. And again I'll direct your attention to the center right  
11:48AM 6 of page 5, your signature appears in the center right part,  
11:48AM 7 Mr. Gentile?

11:48AM 8 A. Yes.

11:48AM 9 Q. And this was a signature you provided on the 9th of June  
11:48AM 10 of 2020?

11:48AM 11 A. Yes.

11:48AM 12 Q. I'm sorry, looks like actually the 9th of August of 2020.  
11:48AM 13 Take a little look closer.

11:48AM 14 **MR. SINGER:** If we can enlarge that?

11:48AM 15 **BY MR. SINGER:**

11:48AM 16 Q. Is that a 6 or a 9?

11:48AM 17 A. I believe it's a 6, I don't recall speaking to IG in  
11:48AM 18 August of 2020.

11:48AM 19 **BY MR. SINGER:**

11:48AM 20 Q. How about page 6, Ms. Champoux, can you advance to that?

11:48AM 21 **BY MR. SINGER:**

11:48AM 22 Q. Again, the center right part of that document, does your  
11:49AM 23 signature appear in that signature block labeled employee  
11:49AM 24 signature?

11:49AM 25 A. Yes.

11:49AM 1 Q. That looks as though the signature was provided on  
11:49AM 2 April 19th of 2022; is that right, sir?

11:49AM 3 A. Yes.

11:49AM 4 **MR. SINGER:** And if we could advance to the last  
11:49AM 5 page, Ms. Champoux? Again, center right.

11:49AM 6 **BY MR. SINGER:**

11:49AM 7 Q. Mr. Gentile, is that your signature under the subject's  
11:49AM 8 signature?

11:49AM 9 A. Yes.

11:49AM 10 Q. It looks like you signed this form on April 19 of 2022;  
11:49AM 11 is that right?

11:49AM 12 A. Yes.

11:49AM 13 **MR. SINGER:** So I'm going to ask if we can restrict  
11:49AM 14 the view to only the witness's view screen at this time.

11:49AM 15 **THE CLERK:** You're all set.

11:49AM 16 **MR. SINGER:** And if we can bring up Exhibit K.3,  
11:49AM 17 Ms. Champoux, next to K.2.

11:49AM 18 **BY MR. SINGER:**

11:49AM 19 Q. And, so, Mr. Gentile, Exhibit K.3, you see there are a  
11:49AM 20 number of signatures; is that right?

11:49AM 21 A. Yes.

11:49AM 22 Q. And they appear to be cutouts of signatures that were  
11:50AM 23 provided on some of the pages that we went through?

11:50AM 24 A. Yes.

11:50AM 25 Q. And that was in Exhibit K.2, the full documents that

11:50AM 1 they're in; is that right?

11:50AM 2 A. Correct.

11:50AM 3 Q. I want to bring you through page by page so you can take  
11:50AM 4 a look at the signatures. If you can take a look at the  
11:50AM 5 signature in K.2, and take a look if that corresponds to the  
11:50AM 6 same signature that's on noted on this this Exhibit K.3.

11:50AM 7 A. Yes.

11:50AM 8 Q. That appears to be the same?

11:50AM 9 A. That appears to be, yes.

11:50AM 10 Q. Is that a fair and accurate depiction of your signature?

11:50AM 11 A. Yes.

11:50AM 12 **MR. SINGER:** If we could advance to page 2 of K.2.

11:50AM 13 **BY MR. SINGER:**

11:50AM 14 Q. And again, I'll reference over to the document on the  
11:50AM 15 right. The signatures on both of these documents appear to  
11:50AM 16 be -- sorry, the signature in K.3 appear to be a fair and  
11:50AM 17 accurate depiction of your signature on the K.2 document?

11:50AM 18 A. Yes.

11:50AM 19 **MR. SINGER:** And I'll advance to page 3 of that  
11:50AM 20 document, Ms. Champoux? Thank you.

11:50AM 21 **BY MR. SINGER:**

11:50AM 22 Q. And same thing, Mr. Gentile, does that signature on K.2  
11:51AM 23 seem to correspond with K.3?

11:51AM 24 **MR. TRIPI:** I'm going to object insofar as K.3 has a  
11:51AM 25 number of different signatures, so I think we need to be

specific as to which signature we're calling out.

**THE COURT:** I agree.

**MR. SINGER:** Okay. I'll bring it through signature by signature.

**THE COURT:** I'm having a tough time following.

**MR. SINGER:** Not problem at all, Judge. No problem at all.

So if we can go back to the first page, Ms. Champoux, on K.2.

**BY MR. SINGER:**

Q. So with regard to the signature that appears in the bottom of that page, see that, Mr. Gentile?

A. Yes.

Q. I'd like you to take a look at the signature, the second one down from the top on Exhibit K.3.

A. Is it the one that was just expanded on my screen?

Q. Correct. It's just expanded on your screen. And it's the signature dated 12/20/2010.

A. Yes.

Q. And so, it a fair and accurate depiction in K.3 as the signature that appears in K.2 page 1?

A. Yes.

**MR. SINGER:** And if we can take down that, and advance to second page of K.2, Ms. Champoux.

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Q. Now, I'll direct your attention, sir, to the signature



1 that appears in the fourth line on the far left of K.3. Does  
2 that signature in K.3 fairly and accurately depict the  
3 signature that appears on page 4 of K.2?

4 A. Yes.

5 **MR. SINGER:** If we can move on to page 5 of K.2,  
6 Ms. Champoux.

7 **BY MR. SINGER:**

8 Q. Mr. Gentile, I direct your attention to the fourth line  
9 on K.3 on the far right. Does the signature that appears in  
10 K.3 fairly and accurately depict the signature that appears  
11 on K.2 page 5?

12 A. Yes.

13 **MR. SINGER:** If we move on to the sixth page of the  
14 document, Ms. Champoux.

15 **BY MR. SINGER:**

16 Q. So I'm going to direct your attention, Mr. Gentile, to  
17 the fifth line down on Exhibit K.3, the signature that  
18 appears in the middle there. Does the signature on K.3  
19 depicted there fairly and accurately represent the signature  
20 that appears in K.2 page 6?

21 A. Yes.

22 **MR. SINGER:** And finally moving on to page 7 of K.2,  
23 Ms. Champoux?

24 **BY MR. SINGER:**

25 Q. Does the signature that appears in the bottom line of K.3

1 fairly and accurately depict the signature that appears on  
2 page 7 of K.2, Mr. Gentile?

3 A. Yes.

4 **MR. SINGER:** Okay. Your Honor, at this time, the  
5 defense moves K.3 into evidence.

6 **MR. TRIPI:** No objection.

7 **THE COURT:** Received without objection.

8 **(DFT Exhibit K.3 was received in evidence.)**

9 **MR. SINGER:** All right. And so, Ms. Champoux, if you  
10 could -- I'm sorry, Ms. Demma, can you please publish that to  
11 the jury?

12 **THE COURT:** Just K.3?

13 **MR. SINGER:** K.3 and K.2, Judge.

14 **THE CLERK:** You're all set.

15 **MR. SINGER:** Thank you.

16 **BY MR. SINGER:**

17 Q. So, you've had an opportunity to review the signatures on  
18 these various pages on K.2 and K.3, correct?

19 A. Yes, I have.

20 Q. And taking a look at the signatures that exist, I want to  
21 also direct your attention to the top signature on K.3; do  
22 you see that, sir?

23 A. Yes, I do.

24 Q. And you recall being asked on direct testimony about a  
25 signature that appears on a deactivation form for a

11:55AM 1 confidential source, R.K.?

11:55AM 2 A. Yes.

11:55AM 3 Q. And confidential source R.K., was a form that was

11:55AM 4 represented in Government Exhibit 9E-3; do you recall that,

11:55AM 5 sir?

11:55AM 6 A. Yes.

11:55AM 7 Q. And part of your direct testimony was that you don't

11:55AM 8 believe that the signature that's on Exhibit 9E-3 is your

11:55AM 9 signature; is that right?

11:55AM 10 A. Correct.

11:55AM 11 Q. And one of the reasons why is because you don't recall

11:55AM 12 signing the form; is that right, sir?

11:55AM 13 A. Correct.

11:55AM 14 Q. And another reason why is because you don't see the word

11:55AM 15 F-O-R appearing in the signature block that's represented in

11:56AM 16 9E-3; is that right?

11:56AM 17 A. Correct.

11:56AM 18 Q. So, we worked through this last week, you talked a little

11:56AM 19 bit about how you sign forms; is that right?

11:56AM 20 A. Yes.

11:56AM 21 Q. And you said that your signature is consistent when you

11:56AM 22 sign it on DEA forms that you would sign on a document such

11:56AM 23 as a will?

11:56AM 24 A. I would think it is, yes.

11:56AM 25 Q. Okay. And you believe that you use the same type of

11:56AM 1 signature when you're signing a credit card receipt?

11:56AM 2 A. I would think so, yes.

11:56AM 3 Q. And you also use the same type of signature when you're  
11:56AM 4 signing some type of official letter?

11:56AM 5 A. Yes.

11:56AM 6 Q. So that's the signature you use most of the time; is that  
11:56AM 7 right?

11:56AM 8 A. Most of the time, yes.

11:56AM 9 Q. And you'll notice in Exhibit K.3, there are sometimes  
11:56AM 10 variations in the signature; is that right sir?

11:56AM 11 A. Yes, there is.

11:56AM 12 Q. So, for instance, I'll direct your attention to the third  
11:56AM 13 line of Exhibit K.3 over to the far right. Do you see how  
11:56AM 14 there is a loop on the left side?

11:57AM 15 A. Yes.

11:57AM 16 Q. And that's something that's not inconsistent with the way  
11:57AM 17 you've seen yourself sign documents when reviewing  
11:57AM 18 signatures, correct?

11:57AM 19 A. Correct.

11:57AM 20 Q. So sometimes there's a variation in the way that you  
11:57AM 21 sign?

11:57AM 22 A. That's fair, yes.

11:57AM 23 Q. And when you're going through these forms, are you going  
11:57AM 24 through them very slowly and deliberately, or are you going  
11:57AM 25 through them sometimes quickly?

11:57AM 1 A. Sometimes quickly.

11:57AM 2 Q. Because you have a lot of things to sign as an agent,  
11:57AM 3 like we talked about last week? Correct?

11:57AM 4 A. Yes.

11:57AM 5 Q. But you'd agree with me that when you take a look at the  
11:57AM 6 top of the form on K.3, the signature that appears at the  
11:57AM 7 very top, which appeared on Exhibit 9E-3, that signature is  
11:57AM 8 not inconsistent with the signatures that appear below it on  
11:57AM 9 the other documents we looked at today; is that right?

11:57AM 10 A. It clearly resembles it, yes.

11:57AM 11 Q. Okay. And I know how we talked about on direct this  
11:57AM 12 happened many years ago as far as the signatures are  
11:58AM 13 concerned on the document that appears at Government Exhibit  
11:58AM 14 9E-3, right?

11:58AM 15 A. Yes, from 2013.

11:58AM 16 Q. And you've signed thousands of different DEA documents  
11:58AM 17 since 2013, to the best of your recollection, right?

11:58AM 18 A. Yes.

11:58AM 19 Q. But you still maintain that you don't believe it's your  
11:58AM 20 signature?

11:58AM 21 A. And I'll go back to my initial OIG interview. The first  
11:58AM 22 thing that popped out at me was the fact that it wasn't the  
11:58AM 23 signature, a slash, and the letters F-O-R. That's why I  
11:58AM 24 maintain that.

11:58AM 25 Q. And that's the only reason why, sir?

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1 A. Correct.

2 Q. Because you can't specifically recall if you signed a

3 form at all, correct?

4 A. I can't recall that, no.

5 Q. It's too far along, too far ago?

6 A. It's over ten years old.

7 Q. So with regard to your interview, Mr. Gentile, you were

8 first interviewed about this signature on this one specific

9 document, Government Exhibit 9E-3, back in June of 2020?

10 A. Yes.

11 Q. And that was after Mr. Bongiovanni was charged in this

12 case, correct?

13 A. Yes.

14 Q. In fact, before this interview, you had been provided a

15 copy of the indictment in this case to review by your RAC at

16 the time, Ed Orgon?

17 A. Yes.

18 Q. And you also reviewed the indictment that was provided to

19 you by Mr. Orgen?

20 A. Yes.

21 Q. So you're aware of the nature of the charges that

22 Mr. Bongiovanni was facing at the time before you sat down

23 and had an interview at the OIG's office, right?

24 A. Yes.

25 Q. And you also did, I guess, a little investigation into

11:59AM 1 the nature of the allegations; is that fair to say, sir?

11:59AM 2 A. Yes.

11:59AM 3 Q. One of the things you did was you reviewed the file  
12:00PM 4 involving Wayne Anderson; is that right?

12:00PM 5 A. Yes.

12:00PM 6 Q. That was something that I think you said was out of  
12:00PM 7 curiosity; is that right?

12:00PM 8 A. Correct.

12:00PM 9 Q. So you were aware of the indictment in the case, correct?

12:00PM 10 A. Yes.

12:00PM 11 Q. And you're aware of the nature of the allegations in the  
12:00PM 12 case, correct?

12:00PM 13 A. Yes.

12:00PM 14 Q. And then you sat down some period after your knowledge of  
12:00PM 15 this with the OIG's office, correct?

12:00PM 16 A. Yes.

12:00PM 17 Q. And you knew what the purpose of that interview was,  
12:00PM 18 Mr. Gentile, correct?

12:00PM 19 A. I do, yes.

12:00PM 20 Q. The purpose was to investigate whether Mr. Bongiovanni  
12:00PM 21 was guilty of a crime or not, correct?

12:00PM 22 A. Correct.

12:00PM 23 Q. And you went in with that mindset into the interview; is  
12:00PM 24 that right?

12:00PM 25 A. I think that's fair, yes.

1 Q. Okay. And with regard to this investigation, is it a  
2 fair statement that knowledge about what was happening with  
3 Mr. Bongiovanni was something that was discussed in the  
4 office at DEA?

5 A. All the time.

6 Q. And it didn't just relate to the allegations involving  
7 potential involvement with Peter Gerace, right?

8 **MR. TRIPI:** Objection.

9 **THE WITNESS:** Correct.

10 **MR. TRIPI:** As to time frame, Your Honor.

11 **THE COURT:** Are you talking about at the time when he  
12 had his interview?

13 **MR. SINGER:** At the time he had his interview, Judge,  
14 I can narrow down a little bit.

15 **THE COURT:** Please, yeah. So the objection is  
16 sustained. Why don't you give a time frame, please?

17 **BY MR. SINGER:**

18 Q. So at the time that you sat down at the OIG's office in  
19 June of 2020, there was conversation in the office about the  
20 nature of the allegations involving Mr. Bongiovanni, correct?

21 A. Yes, there was.

22 Q. And it wasn't just limited to Peter Gerace; is that  
23 right?

24 A. That's accurate.

25 Q. It also focused on the Serios; is that correct?



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1 A. I believe, yes. Yes.

2 Q. Okay. And at the time the indictment came out, going

3 back now to 2019, there was conversation going on in the

4 office about the nature of the investigation involving

5 Mr. Bongiovanni at that time, too, correct?

6 A. Yes, it was.

7 Q. And it wasn't just limited to Peter Gerace, but it also

8 involved the Serios; is that right?

9 A. Yes.

10 Q. At the time before the indictment came out after

11 Mr. Bongiovanni retired from the DEA, there was conversation

12 ongoing about the nature of the investigation that was being

13 conducted in the office, correct?

14 A. There was knowledge of an investigation. So, yes, it was

15 discussed.

16 Q. And people knew that it related to Peter Gerace, correct?

17 A. Yes.

18 Q. And people knew that it related to the Serios as well,

19 correct?

20 A. Yes.

21 Q. And even before the time when Mr. Bongiovanni retired,

22 there was conversation going on in the office about the

23 nature of the allegations against Mr. Bongiovanni; is that

24 right?

25 A. Yes.

1 Q. It involved not just Peter Gerace, but the Serios as  
2 well, correct?

3 A. Correct.

4 **MR. SINGER:** Thank you, sir.

5 **THE WITNESS:** Thank you.

6 **MR. SINGER:** Just one moment.

7 Thanks, Mr. Gentile, no further questions.

8 **THE WITNESS:** Thank you.

9 **THE COURT:** Redirect.

10 **MR. TRIPI:** Thank you, Your Honor.

11  
12 **REDIRECT EXAMINATION BY MR. TRIPI:**

13 Q. I'd actually like to pick up where Mr. Singer left off.  
14 So his last question was before Mr. Bongiovanni -- before  
15 Mr. Bongiovanni retired, he asked you about conversation  
16 relating to investigation of Bongiovanni regarding the  
17 Serios; do you recall that? That's what he just asked you  
18 about, right?

19 A. Yes.

20 Q. Okay. Now, you were a group supervisor in 2019 later on,  
21 correct?

22 A. Yes.

23 Q. You were -- were you in a position to know what the  
24 initial report was regarding an investigation of Bongiovanni?  
25 Yes or no?

12:03PM 1 A. No.

12:04PM 2 Q. Okay. Were you speculating when you answered

12:04PM 3 Mr. Singer's last question?

12:04PM 4 A. There was a lot of theories within the office, yes.

12:04PM 5 Q. Okay. Do you recall specific conversation before he

12:04PM 6 retired about the Serios connecting Bongiovanni to that

12:04PM 7 investigation? Specific conversations.

12:04PM 8 A. No. Nothing specific.

12:04PM 9 Q. So were you speculating on that last question he asked

12:04PM 10 you?

12:04PM 11 A. I feel it was confusing, the question.

12:04PM 12 Q. The question was. Okay. We'll move on.

12:04PM 13 On that last score, the person to whom a report of

12:04PM 14 investigation would be made is the RAC of the office,

12:04PM 15 correct?

12:04PM 16 A. I'm sorry, on the --

12:05PM 17 Q. The proper person within the DEA who would be made aware

12:05PM 18 of an investigation of an active agent is the RAC, correct?

12:05PM 19 A. Correct.

12:05PM 20 Q. And that was who?

12:05PM 21 A. Edward Orgon.

12:05PM 22 Q. That wasn't you?

12:05PM 23 A. No.

12:05PM 24 **MR. TRIPI:** Okay. Ms. Champoux, can we pull up

12:05PM 25 Government Exhibit 9E-3, please, in evidence. And publish for

1 the jury.

2 **BY MR. TRIPI:**

3 Q. Now, you've seen this form, you've been asked some  
4 questions about it, so we're not going to spend a lot of time  
5 on it, but I do want to ask you a few questions, okay?

6 You were asked questions on cross about deactivating  
7 sources, confidential sources relating to misconduct; do you  
8 remember those questions on cross?

9 A. Yes.

10 Q. Now, in box 5, is -- on that form, is that the place or  
11 the space on the form provided to list whether a source is  
12 being deactivated for misconduct?

13 A. No.

14 Q. Where -- where would you explain that part? What box?

15 A. Box 9.

16 **MR. TRIPI:** Okay. Can we pull up that box?

17 **BY MR. TRIPI:**

18 Q. So box 9 is the space to explain whether the source is  
19 deactivated for misconduct, correct?

20 A. Correct.

21 Q. And misconduct, I think as you explained on Thursday, can  
22 include violating the agreement by doing drugs?

23 A. Yes.

24 Q. And what does -- what the defendant wrote in box 9 say  
25 about this source?

1 A. It states the C.S.'s performance was very positive.

2 Q. And is that box important, because if the source is ever  
3 in the future closed, you would need, one, you would need to  
4 know how the performance was if, for example, a reactivation  
5 is considered?

6 **MR. SINGER:** Objection to form.

7 **THE COURT:** Yeah, sustained.

8 **BY MR. TRIPI:**

9 Q. Why is that box important?

10 A. It would notify any agents in the future if they were  
11 interested in reactivating this particular C.S., if there was  
12 any negative information associated with him or her.

13 Q. Do you see any negative information in that box?

14 A. I don't.

15 **MR. TRIPI:** Can we go to Exhibit 9E-2, please? Also  
16 in evidence, Your Honor. And can we go to the second page of  
17 that exhibit?

18 **BY MR. TRIPI:**

19 Q. Regarding this particular source, was the term the source  
20 was signed up for one year?

21 A. Yes.

22 Q. And is that consistent with the standard term that  
23 applied back in 2013 and 2014?

24 A. Yes.

25 Q. So if on cross-examination you were asked a question that

1 said so back in the day, if the C.S. did not perform, it was  
2 DEA policy to deactivate a source in 90 days, were you  
3 confused by that question?

4 **MR. SINGER:** Object to the form.

5 **THE COURT:** Yeah, sustained.

6 **BY MR. TRIPI:**

7 Q. Do you remember being asked: So back in the day, if a  
8 C.S. did not form, was DEA policy to deactivate a source in  
9 90 days?

10 A. I do remember the question.

11 Q. Okay.

12 A. And it would depend on who the boss was, or the ASAC at  
13 the time.

14 Q. That was not the policy in 2013 and 2014, correct?

15 A. I don't believe it was policy, it was preference.

16 Q. Okay. While you were being asked questions about DEA  
17 policy on cross, correct?

18 **MR. SINGER:** Objection to leading.

19 **THE WITNESS:** Yes.

20 **MR. TRIPI:** I'm framing it for him.

21 **THE COURT:** Overruled.

22 **BY MR. TRIPI:**

23 Q. Was there a policy in 2013, 2014, to deactivate a source  
24 within 90 days?

25 A. Not that I'm aware of, no.

12:09PM 1 Q. And the agreement you're looking at is for how long?

12:09PM 2 A. This agreement's for one year.

12:09PM 3 **MR. TRIPI:** Can we take that down?

12:09PM 4 **BY MR. TRIPI:**

12:09PM 5 Q. Now, on cross-examination, I think both on Thursday and  
12:10PM 6 today, you were asked a question about your signature.

12:10PM 7 **MR. TRIPI:** If we can pull up Government Exhibit 9E-3  
12:10PM 8 again. And highlight the signature blocks, please.

12:10PM 9 **BY MR. TRIPI:**

12:10PM 10 Q. You were asked a question, you don't believe it's yours  
12:10PM 11 because there's no F-O-R marked next to it, correct?

12:10PM 12 A. Correct.

12:10PM 13 Q. And you just -- and because you just don't recall signing  
12:10PM 14 the form; do you remember those questions?

12:10PM 15 A. Yes.

12:10PM 16 Q. And you gave an answer, correct?

12:10PM 17 A. Yes.

12:10PM 18 Q. And, but you testified in this grand jury under oath on  
12:10PM 19 June 4th, 2020, correct?

12:10PM 20 A. Yes.

12:10PM 21 Q. And this is page 10 at lines 22 to 23 of that exhibit,  
12:11PM 22 which is Government Exhibit 3525A.

12:11PM 23 You were asked regarding that exact form, question: Is  
12:11PM 24 that your signature?

12:11PM 25 Answer: It is not.

1 Were you asked that question, did you give that answer?

2 A. Yes.

3 Q. And then at page 17, line 17 through 19, you were asked

4 sorry -- page 16, lines 17 through 19, you were asked this

5 question: Do you believe that to be a forgery of your

6 signature?

7 And your answer was: I do.

8 **MR. SINGER:** Objection.

9 **MR. TRIPI:** This is 801 --

10 **THE COURT:** I understand, I --

11 **MR. TRIPI:** -- D, Your Honor.

12 **THE COURT:** -- I understand, I understand the rule

13 under which you're offering it.

14 Come on up. Come on up.

15 (Sidebar discussion held on the record.)

16 **MR. SINGER:** So we had a similar objection last week,  
17 Judge, where the government attempted to elicit testimony that  
18 Mr. Gentile believed it was a forgery, quote, unquote. I  
19 believe that's where we're going now.

20 **THE COURT:** Yeah.

21 **MR. SINGER:** So it's the same basis of the objection.

22 **THE COURT:** I don't know what you're -- so you're  
23 trying to impeach your own witness, which is fine, but I don't  
24 know what the impeachment -- he has testified, now several  
25 times, that he doesn't think that's his signature, it's not



12:12PM 1 his signature.

12:12PM 2 **MR. TRIPI:** May I elaborate?

12:12PM 3 **THE COURT:** Go ahead.

12:12PM 4 **MR. TRIPI:** So, Your Honor, the -- obviously, as you  
12:12PM 5 well know hearsay better than all of us here, under the rule  
12:12PM 6 for inconsistent statements, it doesn't have to be on all  
12:12PM 7 fours, right? It could be more nuanced than like a perjury  
12:13PM 8 case.

12:13PM 9 **THE COURT:** Yeah.

12:13PM 10 **MR. TRIPI:** So, obviously, today and Friday on cross,  
12:13PM 11 he said -- he cabined his testimony, he cabined it by saying  
12:13PM 12 it's not my signature because it doesn't say F-O-R. And then  
12:13PM 13 Mr. Singer elucidated the point, it's not my signature because  
12:13PM 14 I have signed so money forms that I just don't remember.

12:13PM 15 But I have sworn testimony before the grand jury and  
12:13PM 16 I submit that would have been appropriate still on direct, but  
12:13PM 17 they chose to go there on cross again, you sustained the  
12:13PM 18 objection on direct, they went there, and doubled down and  
12:13PM 19 tripled down on it, and now I think the door is open to now  
12:13PM 20 impeach the witness by his inconsistency. Because  
12:13PM 21 inconsistency is when shown that form in grand jury, in sworn  
12:13PM 22 testimony, his opinion was it's forgery, it wasn't it's not  
12:13PM 23 mine because it doesn't say F-O-R, and it's not mine because I  
12:13PM 24 sign so many forms. That wasn't the answer.

12:14PM 25 **THE COURT:** So I think you can ask him do you believe

12:14PM 1 that somebody else signed your name?

12:14PM 2 And I think you can ask him did you give somebody  
12:14PM 3 permission to sign your name there?

12:14PM 4 It's just the -- the -- the forgery --

12:14PM 5 What's the problem with that?

12:14PM 6 **MR. SINGER:** So there's a couple of things. Number 1  
12:14PM 7 is that originally I thought that the government was asking  
12:14PM 8 the question to elicit a prior consistent statement, which  
12:14PM 9 would be the grand jury testimony. It appears like they're  
12:14PM 10 trying to elicit a prior inconsistent statement. I don't  
12:14PM 11 think it's inconsistent what he testified here versus what he  
12:14PM 12 testified in the grand jury. The import is the same thing,  
12:14PM 13 which is he testified that he doesn't believe it's his  
12:14PM 14 signature. He testified that way on direct, on cross, and in  
12:14PM 15 the grand jury on that point.

12:14PM 16 I asked him a question on cross whether or not he  
12:14PM 17 recalled signing the form, he said he didn't. So, he couldn't  
12:14PM 18 remember whether he signed it or not on that basis of not  
12:14PM 19 recalling what the form he signed was.

12:14PM 20 I also asked him whether, you know, if the signature  
12:14PM 21 was in some way consistent with what his signature is, and he  
12:15PM 22 testified to that.

12:15PM 23 So the government is attempting to impeach him for  
12:15PM 24 making inconsistent statement. There's nothing inconsistent  
12:15PM 25 with what he testified here, Judge. He testified that I don't

12:15PM 1 believe it's my signature.

12:15PM 2 **THE COURT:** That's where we started this.

12:15PM 3 **MR. TRIPI:** But he also testified I don't remember  
12:15PM 4 it's my signature, because I sign a lot of documents -- they  
12:15PM 5 elicited that testimony, and because I didn't write F-O-R.  
12:15PM 6 They elucidated that testimony.

12:15PM 7 **THE COURT:** You asked him, is that your signature?

12:15PM 8 **MR. SINGER:** Yes.

12:15PM 9 **THE COURT:** And he said no --

12:15PM 10 **MR. SINGER:** Yes.

12:15PM 11 **THE COURT:** -- isn't that right?

12:15PM 12 **MR. TRIPI:** That's consistent.

12:15PM 13 **THE COURT:** So, I mean, I think we're splitting  
12:15PM 14 hairs. I think we really are splitting hairs. I think you  
12:15PM 15 can ask him -- I don't want you to use the word forgery. You  
12:15PM 16 can ask did somebody else sign your name and did you give  
12:15PM 17 anyone permission to sign your name.

12:15PM 18 **MR. TRIPI:** Okay, fair enough.

12:15PM 19 (End of sidebar discussion.)

12:15PM 20 **MR. TRIPI:** Ms. Champoux, if it's okay with the  
12:16PM 21 Court, can we pull that exhibit back up, 9E-3, please.

12:16PM 22 **THE COURT:** Sure.

12:16PM 23 **MR. TRIPI:** And can we zoom in on the signatures  
12:16PM 24 again.

25



12:17PM 1 Q. Do you remember being presented that form?

12:17PM 2 A. Yes.

12:17PM 3 Q. Do you remember signing that form?

12:17PM 4 A. Yes.

12:17PM 5 Q. Okay. As compared to the document on the right, do you  
12:17PM 6 remember ever seeing the form on the right, Exhibit 9E-3,  
12:17PM 7 before the OIG interview?

12:17PM 8 A. No.

12:17PM 9 **MR. TRIPI:** Okay. Let's go to the next page of  
12:17PM 10 Defense Exhibit K.2.

12:17PM 11 **BY MR. TRIPI:**

12:18PM 12 Q. That's another signature page from the June 3rd, 2020  
12:18PM 13 interview, correct?

12:18PM 14 A. Correct.

12:18PM 15 Q. And you're the witness in that interview?

12:18PM 16 A. Yes.

12:18PM 17 Q. So your title as it relates to that interview is  
12:18PM 18 accurate, something you remember?

12:18PM 19 A. Yes.

12:18PM 20 Q. And do you remember signing that form, the second page of  
12:18PM 21 Defense Exhibit K.2?

12:18PM 22 A. Yes.

12:18PM 23 Q. Now, comparing that to Government Exhibit 9E-3, are you  
12:18PM 24 Shane Nastoff?

12:18PM 25 A. No.

1 Q. Were you the controlling agent for confidential source  
2 13 -- or, the co-agent for confidential source 13-144841?

3 A. No.

4 **MR. TRIPI:** Okay. Can we go to the third page of  
5 K.2, please. Is there a third page?

6 **MR. COOPER:** We're on the third page.

7 **MR. TRIPI:** Oh, I'm sorry, the fourth page.

8 **BY MR. TRIPI:**

9 Q. Is this a -- another warning and assurances to employee  
10 from June 9th, 2020 interview with the Department of Justice  
11 OIG?

12 A. Yes.

13 Q. Were you the witness interviewed in that interview?

14 A. Yes.

15 Q. Do you remember signing that form?

16 A. Yes.

17 Q. And as it relates to that interview, your status as a  
18 witness was something that was accurate, correct?

19 A. Correct.

20 Q. As compared to Exhibit 9E-3, were you ever a controlling  
21 or handling agent for that source?

22 A. No.

23 **MR. TRIPI:** Can we go to page 5 of K.2, please.

24 **BY MR. TRIPI:**

25 Q. Again, this is another signature regarding your status as

12:19PM 1 a witness in that interview from June 9th, 2020, correct?

12:20PM 2 A. Correct.

12:20PM 3 Q. Is your title witness in that document accurate?

12:20PM 4 A. Yes.

12:20PM 5 Q. Do you remember signing that?

12:20PM 6 A. Yes.

12:20PM 7 Q. And now I notice you didn't write the letters F-O-R on  
12:20PM 8 that, right?

12:20PM 9 A. Correct.

12:20PM 10 Q. Is that because you were signing it for yourself?

12:20PM 11 A. Yes, I was.

12:20PM 12 **MR. TRIPI:** Can we go to page 6, please.

12:20PM 13 **BY MR. TRIPI:**

12:20PM 14 Q. Again, this is an interview April 19th, 2022, and again  
12:20PM 15 with the DOJ OIG, and you were a witness; is that correct?

12:20PM 16 A. Yes.

12:20PM 17 Q. And you remember signing that form?

12:20PM 18 A. Yes.

12:20PM 19 Q. And you didn't write F-O-R on the signature line,  
12:20PM 20 correct?

12:20PM 21 A. Correct.

12:20PM 22 Q. Why didn't you write F-O-R?

12:20PM 23 A. Because I was signing for myself.

12:20PM 24 Q. And in Exhibit 9E-3, had you ever seen that form before  
12:21PM 25 it was presented to you by DOJ OIG?

12:21PM 1 A. No.

12:21PM 2 **MR. TRIPI:** And can we go to the last page of K.2,  
12:21PM 3 please.

12:21PM 4 **BY MR. TRIPI:**

12:21PM 5 Q. Again, do you remember signing that document on  
12:21PM 6 April 19th, 2022?

12:21PM 7 A. Yes.

12:21PM 8 Q. And you didn't write the letters F-O-R?

12:21PM 9 A. No.

12:21PM 10 Q. Why not?

12:21PM 11 A. I was signing for myself.

12:21PM 12 **MR. TRIPI:** One moment, please, Your Honor.

12:21PM 13 No further redirect. Thank you.

12:21PM 14 **THE COURT:** Anything more, Mr. Singer?

12:21PM 15 **MR. SINGER:** Briefly.

12:22PM 16

12:22PM 17 **RECROSS-EXAMINATION BY MR. SINGER:**

12:22PM 18 Q. So, Mr. Gentile, do you recall being asked some questions  
12:22PM 19 about the rumors floating around the office --

12:22PM 20 **MR. TRIPI:** Objection, beyond the scope of redirect.

12:22PM 21 **MR. SINGER:** Judge, they asked questions about what  
12:22PM 22 was floating around with regard to Serio at the time of  
12:22PM 23 Mr. Bongiovanni's retirement. I'm asking questions to clarify  
12:22PM 24 the answer that they got.

12:22PM 25 **MR. TRIPI:** I didn't ask about rumors floating around



1 the office.

2 **THE COURT:** Overruled. Go ahead.

3 **BY MR. SINGER:**

4 Q. Do recall that, sir?

5 A. Can you repeat that?

6 Q. Do you recall conversations going on around the office at  
7 the time Mr. Bongiovanni retired regarding the Serio  
8 investigation, right?

9 A. Again there were many rumors, as far as specific names,  
10 the main name I remember is Peter Gerace.

11 Q. So there were many rumors going on, one of the names was  
12 involving Peter Gerace, to the best of your recall?

13 **MR. TRIPI:** Objection. Asked and answered.

14 **THE COURT:** Overruled.

15 **BY MR. SINGER:**

16 Q. But you can't recall all the names being floated around  
17 at that time, correct?

18 **MR. TRIPI:** Objection. Assumes that were other  
19 names.

20 **THE COURT:** Overruled.

21 **THE WITNESS:** I'm sorry, one more time.

22 **BY MR. SINGER:**

23 Q. But you can't recall any other names being floated around  
24 at that point in time, correct?

25 A. I don't recall, no.

12:23PM 1 Q. Okay. And with regard to the deactivation form that you  
12:23PM 2 were shown vis-à-vis Mr. R.K., Government Exhibit 9A-3?  
12:23PM 3 A. Yes.  
12:23PM 4 Q. So that form, on deactivation -- you're a G.S., right?  
12:23PM 5 A. Yes, I am.  
12:23PM 6 Q. The special agent in charge of the confidential source is  
12:23PM 7 the person who's responsible for that confidential source,  
12:23PM 8 correct?  
12:23PM 9 A. The main handler?  
12:23PM 10 Q. Yes.  
12:23PM 11 A. Yes.  
12:23PM 12 Q. But the group supervisor is the one who allows the  
12:23PM 13 special agent under their command to open up the confidential  
12:23PM 14 source file, correct?  
12:23PM 15 A. As far as allowing, I mean, yes. I mean, they would  
12:24PM 16 review the case, the C.S. file, absolutely.  
12:24PM 17 Q. You're the person who approves opening up someone as a  
12:24PM 18 confidential source as a G.S., right?  
12:24PM 19 A. Yes.  
12:24PM 20 Q. And you're also the person who approves deactivating the  
12:24PM 21 source as the G.S., right?  
12:24PM 22 A. Yes.  
12:24PM 23 Q. So, for instance, an agent under a group supervisor  
12:24PM 24 cannot just deactivate a source on his or her own, correct?  
12:24PM 25 A. Correct.

12:24PM 1 Q. That needs to be approved by the group supervisor,  
12:24PM 2 correct?

12:24PM 3 A. Yes.

12:24PM 4 Q. And with regard to the forms that you were shown in  
12:24PM 5 Exhibit K.2 from the government, the signature examples that  
12:24PM 6 you were provided, you'll agree with me, the first page was  
12:24PM 7 an older signature, right?

12:24PM 8 A. Yes.

12:24PM 9 Q. But the other pages, pages 2 through 7 of K.2, they were  
12:24PM 10 newer signatures, correct?

12:24PM 11 A. Yes.

12:24PM 12 Q. They dated from -- anywhere from 2020 to 2022, correct?

12:24PM 13 A. Yes.

12:24PM 14 Q. And they involved an investigation that was ongoing in  
12:24PM 15 the office that you were a part of, correct?

12:25PM 16 A. Yes.

12:25PM 17 Q. And, so, those forms were closer in time to this trial  
12:25PM 18 than the 2013 form represented in Government Exhibit 9A-3,  
12:25PM 19 correct?

12:25PM 20 A. Yes.

12:25PM 21 Q. So safe to say they were more fresh in your memory when  
12:25PM 22 you signed those forms?

12:25PM 23 A. Yes.

12:25PM 24 Q. And, so, those forms also dealt with an investigation  
12:25PM 25 ongoing in the office, correct?

12:25PM 1 A. Yes.

12:25PM 2 Q. It was an investigation that had some importance in the  
12:25PM 3 office, correct?

12:25PM 4 **MR. TRIPI:** Objection as to importance in the office.  
12:25PM 5 This is well far afield now.

12:25PM 6 **THE COURT:** Overruled.

12:25PM 7 **THE WITNESS:** Yes.

12:25PM 8 **BY MR. SINGER:**

12:25PM 9 Q. And it was an investigation that in some ways involved  
12:25PM 10 you tangentially, correct?

12:25PM 11 A. Yes.

12:25PM 12 Q. So, safe to say that you put more import into your recall  
12:25PM 13 of those forms than you would any other form you signed for  
12:25PM 14 the DEA, correct?

12:25PM 15 A. That's fair, yes.

12:25PM 16 Q. Especially a form that could have been signed back in  
12:25PM 17 2013, correct?

12:25PM 18 A. Yes.

12:25PM 19 **MR. SINGER:** Thank you, nothing further.

12:25PM 20 **THE COURT:** Anything more?

12:25PM 21 **MR. TRIPI:** One question.

12:26PM 22

12:26PM 23 **RE-REDIRECT EXAMINATION BY MR. TRIPI:**

12:26PM 24 Q. Mr. Gentile, when you were you first shown that C.I.  
12:26PM 25 deactivation form and you glanced that signature during your

OIG interview, and you took a close look at your signature,  
what was your immediate gut reaction.

**MR. SINGER:** Object to the form.

**THE COURT:** Sustained.

**BY MR. TRIPI:**

Q. What was your reaction to seeing that form, on that  
signature line?

A. It upset me.

Q. What?

A. It upset me.

Q. Why?

A. Because I didn't sign it.

**MR. TRIPI:** Nothing further.

**THE COURT:** Anything more, Mr. Singer?

**MR. SINGER:** No.

**THE COURT:** You can step down, sir, thank you.

(Witness excused at 12:26 p.m.)

(Excerpt concluded at 12:26 p.m.)

\* \* \* \* \*

#### **CERTIFICATE OF REPORTER**

In accordance with 28, U.S.C., 753(b), I certify that  
these original notes are a true and correct record of  
proceedings in the United States District Court for the  
Western District of New York on March 4, 2024.

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR  
Official Court Reporter  
U.S.D.C., W.D.N.Y.

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